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7 Attorneys for Defendant and Cross-Complainant  
8 THE REGENTS OF THE UNIVERSITY OF CALIFORNIA

9 UNITED STATES DISTRICT COURT  
10 NORTHERN DISTRICT OF CALIFORNIA  
11 SAN FRANCISCO DIVISION  
12

13 CALIFORNIA BERRY CULTIVARS, LLC,

14 Plaintiff,

15 v.

16 THE REGENTS OF THE UNIVERSITY OF  
17 CALIFORNIA, a corporation,

18 Defendant.  
19  
20  
21

22 THE REGENTS OF THE UNIVERSITY OF  
23 CALIFORNIA, a corporation,

24 Cross-Complainant,

25 v.

26 CALIFORNIA BERRY CULTIVARS, LLC,  
27 DOUGLAS SHAW, and KIRK LARSON,

28 Crossclaim Defendants.

Case No. 3:16-cv-02477-VC

**DECLARATION OF MATTHEW A.  
CHIVVIS IN SUPPORT OF  
ADMINISTRATIVE MOTION TO  
FILE UNDER SEAL EXHIBITS TO  
THE REGENTS OF THE  
UNIVERSITY OF CALIFORNIA'S  
CROSS-MOTION FOR SUMMARY  
JUDGMENT AND RESPONSE TO  
CBC'S MOTION FOR SUMMARY  
JUDGMENT**

1 I, Matthew A. Chivvis, do hereby declare as follows:

2 1. I am a partner with the law firm of Morrison & Foerster LLP and an attorney of  
3 record for Defendant and Cross-Complainant, The Regents of the University of California (“the  
4 University”) in the above-captioned matter. I am admitted to practice law in the State of  
5 California and before this Court. I submit this declaration in support of the University’s  
6 Administrative Motion to File Under Seal Exhibits to The Regents of the University of  
7 California’s Cross-Motion for Summary Judgment and Response to CBC’s Motion for Summary  
8 Judgment. I have personal knowledge of the facts stated in this declaration, and I could and  
9 would competently testify to them if called as a witness.

10 2. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
11 Larson designated the Deposition Transcript of Douglas Shaw, attached to The Regents of the  
12 University of California’s Cross-Motion for Summary Judgment and Response to CBC’s Motion  
13 for Summary Judgment as Exhibit 1, as “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES  
14 ONLY” pursuant to the Protective Order in this case.

15 3. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
16 Larson designated CBC\_DS\_00003003, attached to The Regents of the University of California’s  
17 Cross-Motion for Summary Judgment and Response to CBC’s Motion for Summary Judgment as  
18 Exhibit 6, as “CONFIDENTIAL” pursuant to the Protective Order in this case.

19 4. Exhibit 9 to the Declaration of Matthew Chivvis in Support of The Regents of the  
20 University of California’s Cross-Motion for Summary Judgment and Response to CBC’s Motion  
21 for Summary Judgment is a license agreement between the University and Lassen Canyon  
22 Nursery, Inc. The University has designated Exhibit 9 as “HIGHLY CONFIDENTIAL –  
23 ATTORNEYS’ EYES ONLY” pursuant to the Protective Order in this case. (ECF No. 52).  
24 There are compelling reasons for sealing Exhibit 9. The terms of the license agreement between  
25 the University and Lassen Canyon Nursery, Inc. are confidential, proprietary, and not generally  
26 available to the public. These terms include granular details regarding the financial terms of the  
27 license, the conditions and limitations of the license, the dates of the license, and the material  
28 included in the license. The disclosure of this licensing information could result in significant

1 competitive harm to the University as it would provide insight into the structure of its licensing  
2 deals, forcing the University into an uneven bargaining position in future negotiations, or permit  
3 the University's competitors to obtain a competitive advantage over the University by offering  
4 alternative licensing terms. The University therefore requests that Exhibit 9 be sealed.

5         5. Exhibit 13 to the Declaration of Matthew Chivvis in Support of The Regents of the  
6 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
7 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
8 University has designated Exhibit 13 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
9 ONLY" pursuant to the Protective Order in this case. There are compelling reasons for sealing  
10 Exhibit 13. The terms of the test agreement between the University and Eurosemillas, S.A. are  
11 confidential, proprietary, and not generally available to the public. These terms include granular  
12 details regarding the financial terms of the test agreement, the conditions and limitations of the  
13 test agreement, the dates of the test agreement, and the material included in the test agreement.  
14 The disclosure of this confidential information could result in significant competitive harm to the  
15 University as it would provide insight into the structure of its pre-commercialization agreements,  
16 forcing the University into an uneven bargaining position in future pre- and post-  
17 commercialization negotiations, or permit the University's competitors to obtain a competitive  
18 advantage over the University by offering alternative test agreement terms. The University  
19 therefore requests that Exhibit 13 be sealed.

20         6. Exhibit 14 to the Declaration of Matthew Chivvis in Support of The Regents of the  
21 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
22 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
23 University has designated Exhibit 14 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
24 ONLY" pursuant to the Protective Order in this case. There are compelling reasons for sealing  
25 Exhibit 14. The terms of the test agreement between the University and Eurosemillas, S.A. are  
26 confidential, proprietary, and not generally available to the public. These terms include granular  
27 details regarding the financial terms of the test agreement, the conditions and limitations of the  
28 test agreement, the dates of the test agreement, and the material included in the test agreement.

1 The disclosure of this confidential information could result in significant competitive harm to the  
2 University as it would provide insight into the structure of its pre-commercialization agreements,  
3 forcing the University into an uneven bargaining position in future pre- and post-  
4 commercialization negotiations, or permit the University's competitors to obtain a competitive  
5 advantage over the University by offering alternative test agreement terms. The University  
6 therefore requests that Exhibit 14 be sealed.

7 7. Exhibit 15 to the Declaration of Matthew Chivvis in Support of The Regents of the  
8 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
9 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
10 University has designated Exhibit 15 as "CONFIDENTIAL" pursuant to the Protective Order in  
11 this case. There are compelling reasons for sealing Exhibit 15. The terms of the test agreement  
12 between the University and Eurosemillas, S.A. are confidential, proprietary, and not generally  
13 available to the public. These terms include granular details regarding the financial terms of the  
14 test agreement, the conditions and limitations of the test agreement, the dates of the test  
15 agreement, and the material included in the test agreement. The disclosure of this confidential  
16 information could result in significant competitive harm to the University as it would provide  
17 insight into the structure of its pre-commercialization agreements, forcing the University into an  
18 uneven bargaining position in future pre- and post-commercialization negotiations, or permit the  
19 University's competitors to obtain a competitive advantage over the University by offering  
20 alternative test agreement terms. The University therefore requests that Exhibit 15 be sealed.

21 8. Exhibit 16 to the Declaration of Matthew Chivvis in Support of The Regents of the  
22 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
23 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
24 University has designated Exhibit 16 as "CONFIDENTIAL" pursuant to the Protective Order in  
25 this case. There are compelling reasons for sealing Exhibit 16. The terms of the test agreement  
26 between the University and Eurosemillas, S.A. are confidential, proprietary, and not generally  
27 available to the public. These terms include granular details regarding the financial terms of the  
28 test agreement, the conditions and limitations of the test agreement, the dates of the test

1 agreement, and the material included in the test agreement. The disclosure of this confidential  
2 information could result in significant competitive harm to the University as it would provide  
3 insight into the structure of its pre-commercialization agreements, forcing the University into an  
4 uneven bargaining position in future pre- and post-commercialization negotiations, or permit the  
5 University's competitors to obtain a competitive advantage over the University by offering  
6 alternative test agreement terms. The University therefore requests that Exhibit 16 be sealed.

7 9. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
8 Larson designated CBC00000882, attached to The Regents of the University of California's  
9 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
10 Exhibit 20, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
11 Protective Order in this case.

12 10. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
13 Larson designated CBC00000883, attached to The Regents of the University of California's  
14 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
15 Exhibit 21, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
16 Protective Order in this case.

17 11. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
18 Larson designated CBC00000884, attached to The Regents of the University of California's  
19 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
20 Exhibit 22, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
21 Protective Order in this case.

22 12. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
23 Larson designated CBC00000885, attached to The Regents of the University of California's  
24 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
25 Exhibit 23 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
26 Protective Order in this case.

27 13. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
28 Larson designated CBC\_DS\_00019086, attached to The Regents of the University of California's

1 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
2 Exhibit 31 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
3 Protective Order in this case.

4 14. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
5 Larson designated CBC\_DS\_00003102, attached to The Regents of the University of California's  
6 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
7 Exhibit 34 as "CONFIDENTIAL" pursuant to the Protective Order in this case.

8 15. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
9 Larson designated CBC00002070, attached to The Regents of the University of California's  
10 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
11 Exhibit 35 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
12 Protective Order in this case.

13 16. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
14 Larson designated CBC00000907-09, attached to The Regents of the University of California's  
15 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
16 Exhibit 36 as "CONFIDENTIAL" pursuant to the Protective Order in this case.

17 17. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
18 Larson designated CBC00000917, attached to The Regents of the University of California's  
19 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
20 Exhibit 38 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
21 Protective Order in this case.

22 18. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
23 Larson designated CBC00000919, attached to The Regents of the University of California's  
24 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
25 Exhibit 39 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
26 Protective Order in this case.

27 19. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
28 Larson designated CBC00001949, attached to The Regents of the University of California's

1 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
2 Exhibit 40 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
3 Protective Order in this case.

4 20. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
5 Larson designated the 30(b)(6) Deposition Transcript of Lucy Westwood, attached to The  
6 Regents of the University of California's Cross-Motion for Summary Judgment and Response to  
7 CBC's Motion for Summary Judgment as Exhibit 41, as "HIGHLY CONFIDENTIAL –  
8 ATTORNEYS' EYES ONLY" pursuant to the Protective Order in this case.

9 21. Exhibit 42 to the Declaration of Matthew Chivvis in Support of The Regents of the  
10 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
11 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
12 University has designated Exhibit 42 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
13 ONLY" pursuant to the Protective Order in this case. There are compelling reasons for sealing  
14 Exhibit 42. The terms of the test agreement between the University and Eurosemillas, S.A. are  
15 confidential, proprietary, and not generally available to the public. These terms include granular  
16 details regarding the financial terms of the test agreement, the conditions and limitations of the  
17 test agreement, the dates of the test agreement, and the material included in the test agreement.  
18 The disclosure of this confidential information could result in significant competitive harm to the  
19 University as it would provide insight into the structure of its pre-commercialization agreements,  
20 forcing the University into an uneven bargaining position in future pre- and post-  
21 commercialization negotiations, or permit the University's competitors to obtain a competitive  
22 advantage over the University by offering alternative test agreement terms. The University  
23 therefore requests that Exhibit 42 be sealed.

24 22. Exhibit 43 to the Declaration of Matthew Chivvis in Support of The Regents of the  
25 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
26 for Summary Judgment is a license agreement between the University and Eurosemillas, S.A.  
27 The University has designated Exhibit 43 as "HIGHLY CONFIDENTIAL – ATTORNEYS'  
28 EYES ONLY" pursuant to the Protective Order in this case. (ECF No. 52). There are compelling

1 reasons for sealing Exhibit 43. The terms of the exclusive license agreement between the  
2 University and Eurosemillas, S.A. are confidential, proprietary, and not generally available to the  
3 public. These terms include granular details regarding the financial terms of the license, the  
4 conditions and limitations of the license, the dates of the license, and the material included in the  
5 license. The disclosure of this licensing information could result in significant competitive harm  
6 to the University as it would provide insight into the structure of its licensing deals, forcing the  
7 University into an uneven bargaining position in future negotiations, or permit the University's  
8 competitors to obtain a competitive advantage over the University by offering alternative  
9 licensing terms. The University therefore requests that Exhibit 43 be sealed.

10 23. Exhibit 44 to the Declaration of Matthew Chivvis in Support of The Regents of the  
11 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
12 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
13 University has designated Exhibit 44 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
14 ONLY" pursuant to the Protective Order in this case. There are compelling reasons for sealing  
15 Exhibit 44. The terms of the test agreement between the University and Eurosemillas, S.A. are  
16 confidential, proprietary, and not generally available to the public. These terms include granular  
17 details regarding the financial terms of the test agreement, the conditions and limitations of the  
18 test agreement, the dates of the test agreement, and the material included in the test agreement.  
19 The disclosure of this confidential information could result in significant competitive harm to the  
20 University as it would provide insight into the structure of its pre-commercialization agreements,  
21 forcing the University into an uneven bargaining position in future pre- and post-  
22 commercialization negotiations, or permit the University's competitors to obtain a competitive  
23 advantage over the University by offering alternative test agreement terms. The University  
24 therefore requests that Exhibit 44 be sealed.

25 24. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
26 Larson designated CBC00003840, attached to The Regents of the University of California's  
27 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
28 Exhibit 45 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the

1 Protective Order in this case.

2 25. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
3 Larson designated CBC\_DS\_00019041, attached to The Regents of the University of California's  
4 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
5 Exhibit 46 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
6 Protective Order in this case.

7 26. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
8 Larson designated CBC00000932, attached to The Regents of the University of California's  
9 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
10 Exhibit 47 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
11 Protective Order in this case.

12 27. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
13 Larson designated the Deposition Transcript of John Hansen, attached to The Regents of the  
14 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
15 for Summary Judgment as Exhibit 48, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
16 ONLY" pursuant to the Protective Order in this case.

17 28. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
18 Larson designated the Deposition Transcript of Kyle VandenLangenberg, attached to The  
19 Regents of the University of California's Cross-Motion for Summary Judgment and Response to  
20 CBC's Motion for Summary Judgment as Exhibit 49, as "HIGHLY CONFIDENTIAL –  
21 ATTORNEYS' EYES ONLY" pursuant to the Protective Order in this case.

22 29. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
23 Larson designated the Deposition Transcript of A.G. Kawamura, attached to The Regents of the  
24 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
25 for Summary Judgment as Exhibit 50, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
26 ONLY" pursuant to the Protective Order in this case.

27 30. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
28 Larson designated the Deposition Transcript of Liz Ponce, attached to The Regents of the

1 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
2 for Summary Judgment as Exhibit 51, as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES  
3 ONLY" pursuant to the Protective Order in this case.

4 31. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
5 Larson designated CBC00009327, attached to The Regents of the University of California's  
6 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
7 Exhibit 53 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
8 Protective Order in this case.

9 32. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
10 Larson designated CBC\_DS\_00025235, attached to The Regents of the University of California's  
11 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
12 Exhibit 54 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
13 Protective Order in this case.

14 33. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
15 Larson designated CBC00000529, attached to The Regents of the University of California's  
16 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
17 Exhibit 57 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
18 Protective Order in this case.

19 34. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
20 Larson designated CBC000014697, attached to The Regents of the University of California's  
21 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
22 Exhibit 58 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
23 Protective Order in this case.

24 35. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
25 Larson designated CBC\_DS\_00023984, attached to The Regents of the University of California's  
26 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
27 Exhibit 59 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
28 Protective Order in this case.

1           36.     Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
2 Larson designated CBC\_DS\_00026983, attached to The Regents of the University of California's  
3 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
4 Exhibit 60 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
5 Protective Order in this case.

6           37.     Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
7 Larson designated CBC\_DS\_00026986, attached to The Regents of the University of California's  
8 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
9 Exhibit 61 as "CONFIDENTIAL" pursuant to the Protective Order in this case.

10          38.     Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
11 Larson designated CBC\_DS\_00019086, attached to The Regents of the University of California's  
12 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
13 Exhibit 67 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
14 Protective Order in this case.

15          39.     Lassen Canyon, a member of Crossclaim Defendants California Berry Cultivars  
16 designated LCN00000493, attached to The Regents of the University of California's Cross-  
17 Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
18 Exhibit 70 as "CONFIDENTIAL" pursuant to the Protective Order in this case. The University  
19 understands that Crossclaim Defendants will file a declaration establishing good cause to permit  
20 the sealing of the document.

21          40.     Exhibit 71 to the Declaration of Matthew Chivvis in Support of The Regents of the  
22 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
23 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
24 University has designated Exhibit 71 as "CONFIDENTIAL" pursuant to the Protective Order in  
25 this case. There are compelling reasons for sealing Exhibit 71. The terms of the test agreement  
26 between the University and Eurosemillas, S.A. are confidential, proprietary, and not generally  
27 available to the public. These terms include granular details regarding the financial terms of the  
28 test agreement, the conditions and limitations of the test agreement, the dates of the test

1 agreement, and the material included in the test agreement. The disclosure of this confidential  
2 information could result in significant competitive harm to the University as it would provide  
3 insight into the structure of its pre-commercialization agreements, forcing the University into an  
4 uneven bargaining position in future pre- and post-commercialization negotiations, or permit the  
5 University's competitors to obtain a competitive advantage over the University by offering  
6 alternative test agreement terms. The University therefore requests that Exhibit 71 be sealed.

7 41. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
8 Larson designated CBC\_DS\_00026454, attached to The Regents of the University of California's  
9 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
10 Exhibit 72 as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" pursuant to the  
11 Protective Order in this case.

12 42. Crossclaim Defendants California Berry Cultivars, LLC, Douglas Shaw, and Kirk  
13 Larson designated CBC\_DS\_00003053, attached to The Regents of the University of California's  
14 Cross-Motion for Summary Judgment and Response to CBC's Motion for Summary Judgment as  
15 Exhibit 82 as "CONFIDENTIAL" pursuant to the Protective Order in this case.

16 43. Exhibit 88 to the Declaration of Matthew Chivvis in Support of The Regents of the  
17 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
18 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A. The  
19 University has designated Exhibit 88 as "CONFIDENTIAL" pursuant to the Protective Order in  
20 this case. There are compelling reasons for sealing Exhibit 88. The terms of the test agreement  
21 between the University and Eurosemillas, S.A. are confidential, proprietary, and not generally  
22 available to the public. These terms include granular details regarding the financial terms of the  
23 test agreement, the conditions and limitations of the test agreement, the dates of the test  
24 agreement, and the material included in the test agreement. The disclosure of this confidential  
25 information could result in significant competitive harm to the University as it would provide  
26 insight into the structure of its pre-commercialization agreements, forcing the University into an  
27 uneven bargaining position in future pre- and post-commercialization negotiations, or permit the  
28 University's competitors to obtain a competitive advantage over the University by offering

1 alternative test agreement terms. The University therefore requests that Exhibit 88 be sealed.

2 44. Exhibit 89 to the Declaration of Matthew Chivvis in Support of The Regents of the  
3 University of California's Cross-Motion for Summary Judgment and Response to CBC's Motion  
4 for Summary Judgment is a test agreement between the University and Eurosemillas, S.A.  
5 Though this document was produced by Crossclaim Defendants, there are compelling reasons for  
6 sealing Exhibit 89. The terms of the test agreement between the University and Eurosemillas,  
7 S.A. are confidential, proprietary, and not generally available to the public. These terms include  
8 granular details regarding the financial terms of the test agreement, the conditions and limitations  
9 of the test agreement, the dates of the test agreement, and the material included in the test  
10 agreement. The disclosure of this confidential information could result in significant competitive  
11 harm to the University as it would provide insight into the structure of its pre-commercialization  
12 agreements, forcing the University into an uneven bargaining position in future pre- and post-  
13 commercialization negotiations, or permit the University's competitors to obtain a competitive  
14 advantage over the University by offering alternative test agreement terms. The University  
15 therefore requests that Exhibit 89 be sealed.

16 45. The University expects that pursuant to Civil Local Rule 79-5(e), Crossclaim  
17 Defendants will file a declaration establishing good cause to permit the sealing of the documents  
18 they have designated as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY" or  
19 "CONFIDENTIAL" as necessary.

20 46. For the reasons stated above, the University respectfully requests that the above  
21 Exhibits be filed under seal.

22 I declare under penalty of perjury that the foregoing is true and correct.

23 Executed on February 8, 2017, in San Francisco, CA.

24  
25 /s/ Matthew A. Chivvis

26 MATTHEW A. CHIVVIS  
27  
28